

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

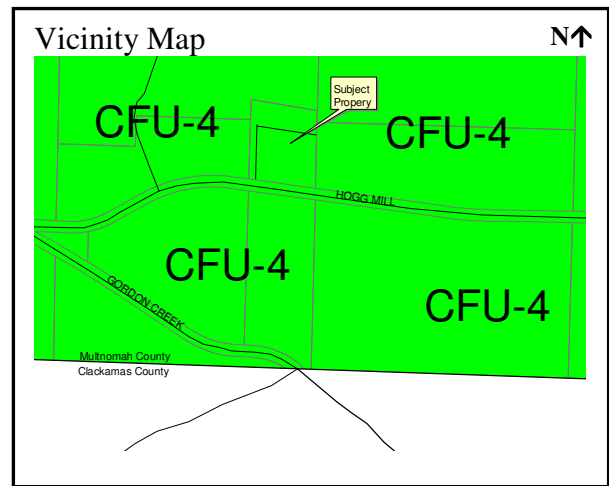
Case File: T2-2010-775

Permit: Exception to Secondary Fire Safety Zone
and an Adjustment to Forest Practices
Setbacks in the CFU-4 zone

Location: 43091 SE Hogg Mill Road
Tax Lot 902, Section 20C,
Township 1 South, Range 5 East, W.M
R649892900

Applicant: Dale Burkholder
PO Box 305
Corbett, OR 97019

Owner: Randall Burbach
1525 NE Crestview Lane
Corbett, OR 97019



Summary: Proposed Exception to the Secondary Fire Safety Zone and an Adjustment to Forest Practices Setbacks for residential development in the Commercial Forest Use – 4 (CFU-4) zone.

Decision: Approved with conditions.

Unless appealed, this decision is effective November 5, 2010, at 4:30 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Friday, October 22, 2010

Instrument Number for Recording Purposes: #2009123081

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is November 5, 2010 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 37: Administration and Procedures, MCC 35.2200 – 35.2310: Commercial Forest Use (CFU-4), MCC 35.7601 - 35.7611: Adjustments. Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. After the decision is final and prior to building permit sign-off, the property owner shall record the Notice of Decision cover sheet through the conditions of approval with the County Recorder along with a copy of the site plan (Exhibit A.3). The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]
2. The proposed building shall be sited as shown on the site plan included as Exhibit A.3. The dwelling shall be located no closer than 78 feet from the eastern property line. [MCC 35.7606 (A)]

3. The property owner shall establish and maintain Primary and Secondary Fire Safety Zones on the subject tract for the proposed building as described below. [MCC 35.2256]
 - (1) Primary Fire Safety Zone

A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.
 - (2) Secondary Fire Safety Zone

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone, except when that area exceeds the tract's property line. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.
4. The property owner shall obtain a building permit for the proposed dwelling and meet the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended. The roof shall be fire retardant and if a chimney is installed in the future it shall have a spark arrester. The dwelling shall feature a central station monitored alarm system and a central station monitored 13D sprinkler system [MCC 35.2261(C), MCC 35.2310(B)(1), and MCC 35.2310(B)(4)]
5. There shall be no combustible fences erected within 12 feet of the exterior surface of the proposed building. [MCC 35.2310(B)(3)]
6. The applicant shall obtain an access permit and follow the requirements set forth in the February 20, 2009 memo from Ken Born, Transportation Planner (Exhibit B.3) including the requirement to provide a minimum 20 foot paved approach for the new access location. [MCRR 4.000]
7. The local fire district shall approve access and fire-flow to the proposed dwelling prior to permit sign-off. The property owner shall provide a copy the Fire District approval to the Land Use and Transportation office. If required by the local fire district, construct improvements to SE Hogg Mill Road as necessary to meet the minimum requirements for emergency services access. All improvements to County right-of-way shall be reviewed and approved by the Land Use and Transportation office.
8. The proposed dwelling shall utilize an approved domestic water supply as approved by the Oregon Department of Water Resources. [MCC 35.7950]
9. Prior to building plan sign-off, the land owner shall obtain a storm-water certificate for all proposed impervious surfaces on each property. A copy of the storm-water certificate shall be provided to the County Land Use and Transportation office. [MCC 35.7960]
10. All proposed earth disturbing activities require a Grading and Erosion Control permit and/or a site plan and supporting documentation for a minimal impact project. [MCC 29.330 through MCC 29.348]

11. Any deviation from the County Standards, as set forth in the Road Rules or the County's Design and Construction Manual, shall be reviewed through the variance process as described under Road Rules Section 16.000.

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, Kevin Cook, at (503) 988-3043 ext. 26782, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

FINDINGS OF FACT

Note: Written findings are contained herein in the following section of this decision. The Multnomah County Code criteria and standards are in **bold** font. Staff comments and analysis addressing the applicable criteria and standards are identified as “**Staff.**”

1. PROPOSAL

Staff: an Exception to the Secondary Fire Safety Zones and an Adjustment to the Forest Practices Setbacks to construct a single family dwelling (Exhibit A.3).

2. PROPERTY DESCRIPTION & VICINITY

Staff: The subject property is located in the East of the Sandy River Plan Area and is within the CFU-4 Zone district (Exhibit B.2). The subject property is 2 acres (Exhibit B.1), and was recently created as part of a Measure 49 (ORS 195.300 to ORS 195.336, State Final Order E120294) approved partition (County file T2-09-003). The State Final Order also approved a dwelling on the site. The current application is meant to refine the location of the dwelling now that a new property owner has purchased the property and has identified building plans for the home (Exhibit A.5). The subject property is located amongst several small woodlot properties with dwelling along SE Hogg Mill Road (Exhibit B.2).

3. COMMERCIAL FOREST USE LOT OF RECORD PROVISIONS

MCC 35.0005 Definitions

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 35.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

- (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.
- (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:
 - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
 - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
 - 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in *recordable form* prior to October 19, 1978; or
 - 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
 - 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Re-cord for the siting of a dwelling in the EFU and CFU districts.)

MCC 35.2275(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

- (1)** A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990
- (2)** A group of contiguous parcels or lots:
 - (a)** Which were held under the same ownership on February 20, 1990; and
 - (b)** Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.
 - 1.** Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.
 - 2.** There shall be an exception to the 19 acre minimum lot size requirement when the entire same owner-ship grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
 - 3.** Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:
 - 4.** The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or
- (3)** A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.
- (4)** Exceptions to the standards of (A)(2) above:
 - (a)** Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.
 - (b)** Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.
 - (c)** Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

* * *

MCC 35.2275 (C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 35.2290, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

MCC 35.2275 (D) The following shall not be deemed a Lot of Record:

- (1)** An area of land described as a tax lot solely for assessment and taxation purposes.
- (2)** An area of land created by the foreclosure of a security interest.
- (3)** A Mortgage Lot.
- (4)** An area of land created by court decree.

MCC 35.2275 (E) Disaggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

- (1) A Lot of Record may be disaggregated for consideration of a new dwelling under MCC 35.2240 if:
- (a) It consists of two legally created, aggregated lots or parcels and:
 - 1. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;
 - 2. One of the lots or parcels is currently developed with a legally established dwelling;
 - 3. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and
 - 4. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.
 - (b) It consists of three or more lots or parcels and:
 - 1. Only one lot of less than 19 acres shall be disaggregated;
 - 2. The remaining lots or parcels shall be combined into a single lot; and
 - 3. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;
 - 4. One of the lots or parcels is currently developed with a legally established dwelling;
 - 5. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and
 - 6. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.
- (2) A property that was originally a portion of a Lot of Record that would otherwise satisfy the standards of 35.2275(E)(1) above, but has subsequently been legally transferred to another owner, may be developed with a single family dwelling if found to satisfy the standards of MCC 35.2240 (A) or (B).

Staff: The property was created in it's current configuration on 10/28/2009 and was authorized by State Final Order E120294 (state M49 approval) and County file T2-09-003. Staff finds that the subject property was created as legal parcel in 2009 (Exhibits B.4, B.5, and B.6).

4. COMMERCIAL FOREST USE FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

MCC 35.2256: The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use And location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)

Use	Forest Practice Setbacks			Fire Safety Zones
Other Structures	N/A	30	130	Primary & Secondary required

- (A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.
- (B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 35.2310 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.
- (C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.
- (D) Fire Safety Zones on the Subject Tract

(1) Primary Fire Safety Zone

- (a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.
- (b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

- (c) The building site must have a slope less than 40 percent.

(2) Secondary Fire Safety Zone

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of 35.2310.

- (3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and
- (4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

Staff: The proposed dwelling is considered an “Other Structure” shown in Table 1 because a Measure 49 approved dwelling is not specifically listed among the dwelling types in Table 1. The proposed dwelling requires 130 foot forest practices setbacks to all property lines, except front property lines, which have a 30 foot setback. Forest practices setbacks are measured from the property line to the proposed building as indicated in the Table 1. Setbacks are measure horizontally from the property line to the closest point of the building. For many buildings that closest point is the roof overhang. According to the submitted site plan the proposed forest practices setbacks for the building are 30 feet for the front, over 100 feet for the rear setback, 130 feet to the west, and the east side yard is proposed to be 78 feet (Exhibit A.3). The proposed east side yard setback does not meet the required 130 foot setback, thus an Adjustment must be obtained as required by Subsection (A). The applicant has requested an Adjustment to Forest Practices Setback as part of this case which has met the criteria and been approved as part of the decision for this case (see Section 6 of this decision)

The fire safety zones are measured to the tract boundary as stated in Subsection (D). The slope within 30 feet of the proposed building is less than 10 percent. The primary fire safety zone of 30 feet on all side of the proposed building can be met as shown on the site plan (Exhibit A.3). The secondary fire safety zone can be met on the tract for all sides of the building except the east side with approximately 78 foot distance to the property at the closest point. An exception to the secondary has been approved as part of the decision for this case (see Section 7 of this decision).

5. CFU DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

5.1. MCC 35.2261: All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

5.2 MCC 35.2261(B): New dwellings, replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from a dwelling shall meet the following standards in (1) and (3) or (2) and (3):

5.2.1. MCC 35.2261(B)(2) The structure shall satisfy the following Option 2, Discretionary Type 2 Permit requirements:

(a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 35.2256;

Staff: The dwelling is proposed to be located in a cleared area on the property 30 feet from the SE Hogg Mill Road right-of-way. The location will be clustered with an adjacent approved dwelling location across SE Hogg Mill Road that was also approved as part of State Final Order E120294 and T2-09-003. The clustering of these dwellings minimizes the impact on adjoining forest lands. There are no agricultural lands in the immediate vicinity of the proposed dwelling.

5.2.2. MCC 35.2261(B)(2)(b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

Staff: The dwelling is proposed to be located in a cleared area on the property 30 feet from the SE Hogg Mill Road right-of-way. The location will be clustered with an adjacent approved dwelling location across SE Hogg Mill Road that was also approved as part of State Final Order E120294

and T2-09-003. The clustering of these dwellings minimizes the impact on adjoining forest lands and preserves the remainder of the property for future forest operations and/or accepted farming practices.

5.2.3. MCC 35.2261(B)(2)(c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

Staff: The location of the proposed dwelling 30 feet from the SE Hogg Mill Road right-of-way minimizes the amount of forest land used to site the dwelling.

5.2.4. MCC 35.2261(B)(2) (d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Staff: The applicant's site plan (Exhibit A.3) shows a 30 foot long driveway. The criterion is met.

5.2.5. MCC 35.2261(B)(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;**
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the driveway standards of MCC 35.2261(E) with permanent signs posted along the access route to indicate the location of the emergency water source;**

Applicant: *The subject property is located within the Corbett Fire District.*

Staff: The applicant has submitted a Fire District Review Fire Flow form completed by Thomas Layton, Chief, Corbett Fire District. The tract is within the Corbett Fire District. There is no stream on the property thus Subsection (b) is not required to be met. The criterion in subsection (a) is met.

5.3. MCC 35.2261(C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;**
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**
- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

Staff: The applicant has submitted a Fire District Review Fire Flow form completed by Thomas Layton, Chief, Corbett Fire District. The tract is within the Corbett Fire District. The roof will need to be fire retardant and if a chimney is installed in the future it will need to have a spark arrester. Condition 4 requires these standards to be met.

6. EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES

- 6.1. MCC 35.2310(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 35.2310 (B) when:**
- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or**
 - (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties; or**
 - (3) The proposed dwelling or structure is proposed to be clustered with a legally existing dwelling or structure.**

Staff: The proposed dwelling would be located 78 feet from the east property line. The property is 270 feet deep and the dwelling is proposed within 30 feet of the SE Hogg Mill Road right-of-way, which currently serves more than one property. The secondary fire safety zone may be reduced under the provisions of MCC 35.2310 (B) which are addressed in the following finding.

- 6.2. MCC 35.2310(B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:**

- 6.2.1. MCC 35.2310(B)(2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and**

Staff: The secondary fire safety zone can be met on the tract for all directions from the building except to the east property line (Exhibit A.3) – secondary will be 48 feet and front where the secondary will be 0 feet. Condition 4 requires the dwelling to constructed accordance with the International Fire Code Institute Urban–Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended. This standard is met through a condition.

- 6.2.2. MCC 35.2310(B)(3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**

Staff: Condition 5 requires no combustible fences within 12 feet of the exterior surface of the structure. This standard is met through a condition.

- 6.2.3. MCC 35.2310(B)(4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 35.2310 (B) (1) are utilized, or
(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 35.2310 (B) (2) are utilized.**

Exception: Expansions of existing single family dwellings as allowed by MCC 35.2225 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 35.2261(C)(3).

Staff: Condition 4 requires the dwelling to have a central station monitored alarm system and a central station monitored 13D sprinkler system. This standard is met through a condition.

- 6.2.4. MCC 35.2310(B)(6) All accessory structures within the fire safety zone setbacks required by MCC 35.2256, and all accessory structures within 50 of a dwelling, shall have a central monitored alarm system.**

Staff: No accessory structures are proposed. The standard does not apply.

- 6.2.5. MCC 35.2310(B)(7) All accessory structures within 50 feet of a building shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.**

Staff: No accessory structures are proposed. The standard does not apply.

- 6.2.6. MCC 35.2310(B)(8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban– Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.**

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire- resistive construction or heavy-timber construction.

Staff: No accessory structures are proposed. This standard does not apply.

7. ADJUSTMENT

- 7.1. MCC 35.7606 (A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks, buffers, minimum front lot line length, flag lot pole width, cul-de-sac length, cul-de-sac turnaround radius, and dimensions of a private street, except the following:**

(1) Reduction of yards/setback/buffer requirements within the Significant Environmental Concern (SEC) and Willamette River Greenway (WRG) overlay districts and the Commercial Forest Use fire safety zone are not allowed under the Adjustment process; and
(2) Reduction of yards/setback/buffer requirements within the Hillside Development, Large Fills, Mineral Extraction, and Radio and Television Transmission Towers Code Sections and any increase to the maximum building height shall only be re-viewed as Variances; and
(3) Minor modification of yards/setbacks/buffers in the off-street parking and design review standards are allowed only through the “exception” provisions in each respective Code section.

Staff: The applicant is requesting a 40 percent reduction to the forest practices setback as provided for under MCC 35.7606 (A). The applicant proposes a minimum 78 foot setback to the east property line (Exhibit A.3). The forest practices setback requires a minimum of 130 feet, thus reducing the setback to 78 feet or more meets the 40 percent maximum reduction requirement for an Adjustment. Condition 2 requires that the building be no closer than 78 feet from the east property line.

7.2. MCC 35.7611 Adjustment Approval Criteria

The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 35.7606 upon finding that all the following standards in (A) through (E) are met:

Staff: As discussed in the previous finding the proposed setbacks meet the requirement for an Adjustment of no more than 40 percent of the dimensional standards given in MCC 35.7606 (finding above in Section 7.1 of this decision). The following findings demonstrate that the proposal meets the standards in subsection (A) through (E).

7.2.1. MCC 35.7611 (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Staff: The requirement to meet International Fire Code Institute Urban–Wildland Interface Code Section 505 Class 1 Ignition Resistant Construction as adopted August, 1996 will provide additional protection from a wildfire. Given the distance to forested areas and the additional fire protection, the standard that the proposal equally or better meet the purpose of the forest practice setback is met. This criterion is met.

7.2.2. MCC 35.7611 (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Staff: The residential impact of the dwelling at 78 feet will be similar to that of a dwelling at 130 feet. A typical residential separation from side property lines is 10 feet in other rural zoning districts. The 78 feet to the east property line is not expected to create a greater impact on nearby forest operations than would a dwelling located 130 feet from the property line given that the fire safety standards will be increased through a condition (Condition 4) that requires fire sprinklers and central monitored fire alarm system. This criterion is met.

7.2.3. MCC 35.7611 (C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

Staff: The application seeks only one adjustment, which is a reduction to the Forest practices Side Yard Setback. The criterion is met.

7.2.4. MCC 35.7611 (D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands; and

Staff: No significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands is anticipated. This criterion is met.

7.2.5. MCC 35.7611 (E) If in a Rural Residential (RR) or Rural Center (RC) zone, the proposal will not significantly detract from the livability or appearance of the residential area.

Staff: The property is in the CFU-4 zone, thus this criterion does not apply.

8. OTHER CFU REQUIREMENTS

8.1. Access

MCC 35.2073: All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 36.2075(C).

Staff: The property abuts a street. The criterion is met.

9. CONCLUSION

Staff: The proposed development meets the code criteria and standards, for a new dwelling in CFU-4 District with an Exception to the secondary fire safety zone and an Adjustment to the forest practices setback.

10. EXHIBITS

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits are available for review in Case File T2-2010-775 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received
A.1	1	Application Form	07/20/2010
A.2	1	Originally Submitted Site Plan (not proposed)	07/20/2010
A.3	1	Proposed Site Plan (proposed – indicates dwelling site will be 30’ from right of way)	10/12/2010
A.4	1	Applicant’s Narrative	07/20/2010
A.5	3	Proposed House Plans	07/20/2010
A.6	10	CFU Zone Development Standards Permit Application Form B, Type 2	07/20/2010
A.7	7	CFU Secondary Fire Safety Zone Exception	07/20/2010
A.8	3	Fire District Access and Fire Flow Review forms with letter from Tom Layton, Corbett Fire Chief	07/20/2010
A.9	2	City of Portland Sanitation Review	07/20/2010
A.10	2	Certification of Water Service and Driller’s Report	07/20/2010
‘B’	#	Staff Exhibits	Date

B.1	2	A&T Property Information	07/20/2010
B.2	1	County Zoning	10/11/2010
B.3	3	Memo from Ken Born, Transportation Planner (February 20, 2010)	10/08/2010
B.4	22	County Decision T2-09-003	10/08/2010
B.5	1	Copy of Partition Plat Number 2009-73	10/08/2010
B.6	9	State (Measure 49) Final Order E120294	10/08/2010
'C'	#	Administration & Procedures	Date
C.1	1	Application Complete Letter	08/30/2010
C.2	29	Opportunity to Comment	08/30/2010